

SEARCH & SEIZURE – KNOCK & TALK

Carroll v. Carman

--- U.S. --- (2014)

Decided November 10, 2014

FACTS: On July 3, 2009, the Pennsylvania State Police (PSP) had a report that Zita “had stolen a car and two loaded handguns.” The report included the information that Zita might have gone to Carman’s home. Officers Carroll and Roberts went there to investigate; neither was familiar with the home or its occupants. They arrived about 2:30 p.m.

The Carmans’ home sat on a corner lot, with the front to the main street and the left side to the side street. Parking was not available at the front so they pulled to the side street and stopped. There they could see several cars parked, side-by-side, in a gravel parking lot on the left side of the property. The officers parked near the far rear of the lot and got out. They could see a small structure, like a shed, “with its door open and light on.” Thinking someone was inside, Officer Carroll walked to it, “poked [his] head in,” and announced his agency. No one was inside, so they continued walking towards the house. They could see a sliding glass door that opened onto a ground-level deck and thought it “looked like a customary entryway.” They approached to knock.

As they stepped onto the deck, however, a man emerged and “belligerently and aggressively approached” them. They identified themselves and stated they were looking for Zita, and also asked the man his name. He refused to answer, turned away and reached for his waist. Carroll grabbed the man’s arm, but the man “twisted away from Carroll, lost his balance, and fell into the yard.” A woman came out and asked what was going on – again they explained they were looking for Zita. She identified herself as Karen Carman, and the other man as her husband, Andrew Carman. She told them Zita was not there and consented to a search. Everyone went inside and did so. Zita was not located. The officers left.

The Carman’s filed suit against Officer Carroll under 42 U.S.C. §1983, claiming he “unlawfully entered their property in violation of the Fourth Amendment when he went into their backyard and onto their deck without a warrant.” The case went to trial. Carroll argued the entry fell under the “knock and talk” exception, contending that officers are allowed to knock on doors, “so long as they stay ‘on those portions of [the] property that the general public is allowed to go on.’” The Carmans, however, argued that a normal visitor would have gone to the front door, not the back yard and the back deck. The jury returned a verdict for Carroll and the Carmans appealed.

The Third Circuit Court of Appeals reversed, however, holding that “Officer Carroll violated the Fourth Amendment as a matter of law because the ‘knock and talk’ exception ‘requires that police officers begin their encounter at the front door, where they have an implied invitation to go.’” Further, it ruled that Carroll was not entitled to

qualified immunity because that matter was clearly established in 2009. The Court gave the Carmans judgment as a matter of law.

Carroll then petitioned for certiorari, which was granted by the U.S. Supreme Court.

ISSUE: Is it clearly established that in a knock and talk, the front door must be approached first?

HOLDING: No

DISCUSSION: The Court began by noting that a “government official sued under 1983 is entitled to qualified immunity unless the official violated a statutory or constitutional right that was clearly established at the time of the challenged conduct.”¹ A right becomes “clearly established only if its contours are sufficiently clear that ‘a reasonable official would understand that what he is doing violates that right.’”² In this case, the Third Circuit cited to only a single case, Estate of Smith v. Marasco.³

In that case, officers went to the front door and received no answer; they proceeded to the backyard and at least one, into the garage. The record, however, did not fully describe the layout of the property or whether the officers followed an “apparently open route” to the garage. The Third Circuit concluded that “entry into the curtilage after not receiving an answer at the front door might be reasonable,” but it would not follow automatically that officers could “go onto other parts of the property.” The Supreme Court found, however, that Marasco “did not answer the question whether a ‘knock and talk’ must begin at the front door when visitors may also go to the back door.” (The Court noted the Marasco home “seems not to have even had a back door, let alone one that visitors could use.”) Marasco differed from the situation at the Carman home, whether Carroll, the jury agreed, “restricted [his] movements to walkways, driveways, porches and places where visitors could be expected to go.”

In fact, the Court agreed, “to the extent that Marasco says anything about this case, it arguably supports Carroll’s view.” Further, the Third Circuit’s position was in conflict with decisions made by other circuits, in cases where officers approached a different outer door than the one that appeared to be the “front” door. Specifically, in U.S. v. Titemore, the Court found that approaching a glass sliding door was appropriate, when it appeared to be a “principal entrance to the home,” accessed by “a route that other visitors could be expected to take.”⁴ In another case out of the Seventh Circuit, U.S. v. James, officers approached the rear door of a duplex via a paved walk along the side of the building, when it was clear that door was a common entry point for visitors approaching from that direction.⁵ Several other cases in a similar vein were cited as well.

¹ Ashcroft v. al-Kidd, 563 U.S. – (2011).

² Anderson v. Creighton, 483 U.S. 635 (1987).

³ 318 F.3d 497 (3rd Cir. 2003).

⁴ 437 F.3d 251 (2nd Cir. 2006).

⁵ 40 F.3d 850 (1994).

The Court concluded that it need not decide whether those cases were, in sum, correct, but ruled that it was certainly not clearly established that the front door was the only door that could be approached during a knock and talk.”

The Court granted Carroll’s petition and reversed the decision of the Third Circuit. The Case was remanded for further proceedings.

FULL TEXT OF OPINION: http://www.supremecourt.gov/opinions/14pdf/14-212_c07d.pdf